

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

IVAN PAGOAGA-CASTRO, #2007147,	§	
Plaintiff,	§	
	§	
v.	§	Case No. 6:16-cv-320
	§	
FNU PIERSON, FNU LOWRY, et al.,	§	
Defendants.	§	

**ORDER ADOPTING REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE**

Plaintiff Ivan Pagoaga-Castro, an inmate formerly confined at the Coffield Unit within the Texas Department of Justice (TDCJ), proceeding *pro se*, filed this civil rights lawsuit pursuant to 42 U.S.C. § 1983 alleging purported violations of his constitutional rights. The complaint was referred to United States Magistrate Judge John D. Love for findings of fact, conclusions of law, and recommendations for the disposition of the case.

On March 26, 2019, this Court dismissed Plaintiff's complaint as moot. Docket Nos. 20; 21. Subsequently, the Fifth Circuit Court of Appeals vacated and remanded this Court's adjudication regarding Plaintiff's claims for monetary damage. Docket No. 32. Once the mandate was issued, Judge Love ordered Defendants to file an answer in light of the Fifth Circuit's opinion. Docket No. 34. In response, Defendants filed a motion to dismiss (Docket No. 37) and a motion for summary judgment (Docket No. 42).

In the motion for summary judgment, Defendant Lowry indicates that Plaintiff has been "discharged from the Coffield Unit by TDCJ" because initial disclosures sent

to him were returned to sender with a notation of “discharged.” Docket No. 42 at 1. The Court further notes that previous mail sent by the Court to Plaintiff was also returned as “undeliverable” because Plaintiff was no longer at the detention center address provided. Docket No. 36.

Subsequently, Judge Love ordered Plaintiff to respond to Defendant Lowry’s summary judgment motion and to provide a current mailing address by July 31, 2020. Docket No. 43. Plaintiff filed nothing. On August 7, 2020, Judge Love issued a Report recommending that Plaintiff’s civil rights complaint be dismissed without prejudice for Plaintiff’s failure to comply with an order of the Court. Docket No. 45. A copy of this Report was sent to Plaintiff at his last known address with an acknowledgment card. On August 19, 2020, the Report was returned to the Court—once again—as “undeliverable,” as Plaintiff is no longer at the address he provided. Docket No. 46. To date, no objections to the Report have been filed.

Because objections to Judge Love’s Report have not been filed, Plaintiff is barred from de novo review by the District Judge of those findings, conclusions, and recommendations and, except upon grounds of plain error, from appellate review of the unobjected-to proposed factual findings and legal conclusions accepted and adopted by the district court. *Douglass v. United Services Auto. Ass’n*, 79 F.3d 1415, 1430 (5th Cir. 1996) (en banc).

The Court has reviewed the pleadings in this cause and the Report of the Magistrate Judge. Upon such review, the Court has determined that the Report of the Magistrate Judge is correct. *See United States v. Wilson*, 864 F.2d 1219, 1221

(5th Cir.), *cert. denied*, 492 U.S. 918 (1989) (holding that where no objections to a Magistrate Judge's Report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law").


Local Rule CV-11(d) requires that "[a] *pro se* litigant must provide the court with a physical address (i.e., a post office box is not acceptable) and is responsible for keeping the clerk advised in writing of his or her current physical address." Plaintiff has failed to do that here. Further, Plaintiff has not communicated with the Court at all since June 2019. Accordingly, it is

ORDERED that the Report of the United States Magistrate Judge, (Docket No. 45), is **ADOPTED** as the opinion of the Court. Further, it is

ORDERED that Plaintiff's civil rights action is **DISMISSED** without prejudice for Plaintiff's failure to comply with an order of the Court. Finally, it is

ORDERED that any and all motions which may be pending in this civil action are hereby **DENIED** as **MOOT**.

So **ORDERED** and **SIGNED** this **27th** day of **August, 2020**.



JEREMY D. KERNODLE
UNITED STATES DISTRICT JUDGE